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IN THE SENATE  
SENATE AMENDMENT TO S.B. NO. 1358

AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 12 through 42; and delete pages 2, 3, 4, 5 and 6 and insert:

"SECTION 1. That Section 18-917A, Idaho Code, be, and the same is hereby amended to read as follows:

18-917A. STUDENT HARASSMENT -- INTIMIDATION -- BULLYING. (1) No student and no minor present on school property, in a school vehicle or at school activities, regardless of location, shall intentionally commit, or conspire to commit, an act of harassment, intimidation, ~~or bullying or cyberbullying~~ against ~~another~~ a student.

(2) As used in this section, "harassment, intimidation or bullying" means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

(a) A reasonable person under the circumstances should know will have the effect of:

(i) Harming a student; or

(ii) Damaging a student's property; or

(iii) Placing a student in reasonable fear of harm to his or her person; or

(iv) Placing a student in reasonable fear of damage to his or her property; ~~or and~~

(b) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

~~An act of harassment, intimidation or bullying may also be committed through the use of a land line, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.~~

(3) "Cyberbullying" is an act of harassment, intimidation or bullying committed through the use of a landline, car phone or wireless telephone, or through the use of data or computer software that is accessed through a computer system or computer network, which is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

~~(4) A student who personally violates violation of any provision of this section may shall be guilty of an infraction.~~

SECTION 2. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) To fix the days of the year and the hours of the day when schools shall be in session. However:

(a) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

Grades	Hours
9-12	990
4-8	900
1-3	810
K	450

(b) School assemblies, testing and other instructionally related activities involving students directly may be included in the required instructional hours.

(c) When approved by a local school board, annual instructional hour requirements stated in paragraph (a) may be reduced as follows:

(i) Up to a total of twenty-two (22) hours to accommodate staff development activities conducted on such days as the local school board deems appropriate.

(ii) Up to a total of eleven (11) hours of emergency school closures due to adverse weather conditions and facility failures.

However, transportation to and from school, passing times between classes, recess and lunch periods shall not be included.

(d) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided in paragraph (c) (i) of this section.

(e) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instructions).

(f) The instructional time requirement for grade 12 students may be reduced by action of a local school board for an amount of time not to exceed eleven (11) hours of instructional time.

(g) The state superintendent of public instruction may grant an exemption from the provisions of this section for an individual building within a district, when the closure of that building, for unforeseen circumstances, does not affect the attendance of other buildings within the district.

(2) To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

(3) To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a ~~textbook~~ curricular materials adoption committee as provided in section 33-512A, Idaho Code;

(4) To protect the morals and health of the pupils;

1 (5) To exclude from school, children not of school age;

2 (6) To prescribe rules for the disciplining of unruly or insubordinate  
 3 pupils, including rules on student harassment, intimidation, ~~and~~ bullying  
 4 and cyberbullying as defined in section 18-917A, Idaho Code, such rules to  
 5 be included in a district discipline code adopted by the board of trustees  
 6 and a summarized version thereof to be provided in writing at the beginning  
 7 of each school year through means including, but not limited to, student  
 8 handbooks, district or school websites, and existing communications to ~~the~~  
 9 ~~teachers~~ school personnel, parents and students in the district in a manner  
 10 consistent with the student's age, grade and level of academic achievement.

11 (a) The district's policy against harassment, intimidation, bully-  
 12 ing and cyberbullying shall include a provision affirming that school  
 13 personnel shall intervene or facilitate intervention on behalf of stu-  
 14 dents facing harassment, intimidation, bullying or cyberbullying in  
 15 the school setting or when such act negatively impacts the student's  
 16 educational environment, shall specifically designate persons to whom  
 17 reports are to be made and shall include the procedure for school per-  
 18 sonnel, students, parents/legal guardians or other personnel to report  
 19 harassment, intimidation, bullying or cyberbullying events or informa-  
 20 tion.

21 (b) The board, through the school's administration, shall provide  
 22 annual professional development on the issue of harassment, intimi-  
 23 dation, bullying and cyberbullying consistent with section 33-1208B,  
 24 Idaho Code. Training shall also be provided to noncertificated person-  
 25 nel consistent with employee levels of student interaction.

26 (c) The board's discipline policies relating to harassment, intimidat-  
 27 ion, bullying and cyberbullying shall include a series of graduated  
 28 consequences including, but not limited to, parental notification,  
 29 providing parents with a referral of the student to group or individual  
 30 counseling, suspension and expulsion of the student and the possibility  
 31 of reporting of criminal activity to local law enforcement authorities.

32 (7) To exclude from school, pupils with contagious or infectious dis-  
 33 eases who are diagnosed or suspected as having a contagious or infectious  
 34 disease or those who are not immune and have been exposed to a contagious or  
 35 infectious disease; and to close school on order of the state board of health  
 36 and welfare or local health authorities;

37 (8) To equip and maintain a suitable library or libraries in the school  
 38 or schools and to exclude therefrom, and from the schools, all books, tracts,  
 39 papers, and catechisms of sectarian nature;

40 (9) To determine school holidays. Any listing of school holidays shall  
 41 include not less than the following: New Year's Day, Memorial Day, Indepen-  
 42 dence Day, Thanksgiving Day, and Christmas Day. Other days listed in section  
 43 73-108, Idaho Code, if the same shall fall on a school day, shall be observed  
 44 with appropriate ceremonies; and any days the state board of education may  
 45 designate, following the proclamation by the governor, shall be school holi-  
 46 days;

47 (10) To erect and maintain on each schoolhouse or school grounds a suit-  
 48 able flagstaff or flagpole, and display thereon the flag of the United States  
 49 of America on all days, except during inclement weather, when the school is  
 50 in session; and for each Veterans Day, each school in session shall conduct

1 and observe an appropriate program of at least one (1) class period remembering and honoring American veterans;

3 (11) To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor-;

12 (12) To supervise and regulate, including by contract with established entities, those extracurricular activities which are by definition outside of or in addition to the regular academic courses or curriculum of a public school, and which extracurricular activities shall not be considered to be a property, liberty or contract right of any student, and such extracurricular activities shall not be deemed a necessary element of a public school education, but shall be considered to be a privilege-;

19 (13) To govern the school district in compliance with state law and rules of the state board of education-;

21 (14) To submit to the superintendent of public instruction not later than July 1 of each year documentation which meets the reporting requirements of the federal gun-free schools act of 1994 as contained within the federal improving America's schools act of 1994-;

25 (15) To require that all certificated and noncertificated employees hired on or after July 1, 2008, and other individuals who are required by the provisions of section 33-130, Idaho Code, to undergo a criminal history check shall submit a completed ten (10) finger fingerprint card or scan to the department of education no later than five (5) days following the first day of employment or unsupervised contact with students in a K-12 setting, whichever is sooner. Such employees and other individuals shall pay the cost of the criminal history check. If the criminal history check shows that the employee has been convicted of a felony crime enumerated in section 33-1208, Idaho Code, it shall be grounds for immediate termination, dismissal or other personnel action of the district, except that it shall be the right of the school district to evaluate whether an individual convicted of one (1) of these crimes and having been incarcerated for that crime shall be hired. Provided however, that any individual convicted of any felony offense listed in section 33-1208 2., Idaho Code, shall not be hired. For the purposes of criminal history checks, a substitute teacher is any individual who temporarily replaces a certificated classroom educator and is paid a substitute teacher wage for one (1) day or more during a school year. A substitute teacher who has undergone a criminal history check at the request of one (1) district in which he has been employed as a substitute shall not be required to undergo an additional criminal history check at the request of any other district in which he is employed as a substitute if the teacher has obtained a criminal history check within the previous five (5) years. If the district next employing the substitute still elects to require another criminal history check within the five (5) year period, that district shall pay the cost of the criminal history check or reimburse the substitute teacher for such

1 cost. To remain on the statewide substitute teacher list maintained by the  
 2 state department of education, the substitute teacher shall undergo a crimi-  
 3 nal history check every five (5) years-;i

4 (16) To maintain a safe environment for students by developing a system  
 5 that cross-checks all contractors or other persons who have irregular con-  
 6 tact with students against the statewide sex offender register-;i

7 (17) To provide support for teachers in their first two (2) years in the  
 8 profession in the areas of: administrative and supervisory support, mentor-  
 9 ing, peer assistance and professional development.

10 SECTION 3. That Chapter 12, Title 33, Idaho Code, be, and the same is  
 11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 12 ignated as Section 33-1208B, Idaho Code, and to read as follows:

13 33-1208B. CERTIFICATED PERSONNEL OBLIGATIONS FOR HARASSMENT, INTIM-  
 14 IDATION, BULLYING AND CYBERBULLYING INFORMATION AND PROFESSIONAL DEVELOP-  
 15 MENT. For the purposes of this section the terms "harassment, intimidation  
 16 or bullying" and "cyberbullying" are as defined in section 18-917A, Idaho  
 17 Code.

18 (1) In addition to board requirements to distribute information to stu-  
 19 dents, reasonable efforts shall be made annually to distribute to parents  
 20 and school staff the harassment, intimidation, bullying and cyberbullying  
 21 policies and procedures enacted by school district or charter school boards  
 22 pursuant to section 33-512(6), Idaho Code.

23 (2) School personnel shall intervene or facilitate intervention on be-  
 24 half of students facing harassment, intimidation, bullying or cyberbully-  
 25 ing in the school setting or when such acts negatively impact upon the stu-  
 26 dent's educational environment. School principals or heads of schools, in  
 27 coordination with other certificated personnel, shall annually review the  
 28 school's policies and procedures on harassment, intimidation, bullying and  
 29 cyberbullying and are responsible for the effective implementation of the  
 30 policy.

31 (3) Certificated school personnel shall have completed a district-pro-  
 32 vided, evidence-based professional development training to build skills to  
 33 prevent, identify and respond to harassment, intimidation, bullying and cy-  
 34 berbullying or may show proof of completion of approved anti-bullying pro-  
 35 fessional development training that meets the requirements of the local dis-  
 36 trict.

37 (4) Certificated school personnel shall report all cases that meet the  
 38 definition of harassment, intimidation, bullying and cyberbullying to the  
 39 school's administrative personnel to facilitate annual reporting require-  
 40 ments as well as to facilitate intervention on behalf of the student. The  
 41 certificated employee's reporting shall include a statement of the action  
 42 taken by the certificated employee to intervene or facilitate intervention  
 43 on behalf of the student. The school's superintendent or head of schools for  
 44 a charter school shall annually report incidents of harassment, intima-  
 45 dation, bullying and cyberbullying to the state department of education.

46 (5) Nothing contained herein shall require schools to staff any non-  
 47 school related activities, functions or programs.

1       (6) Sources for model anti-bullying policies, professional develop-  
 2 ment and skill training and guidelines for annual reporting of material in-  
 3 cidents to the state department of education shall be set forth in rules pro-  
 4 mulgated by the state board of education.

5       (7) The provisions of this section shall not apply to home school set-  
 6 tings.

7       (8) Nothing in this section shall supersede or replace existing rights  
 8 or remedies under any other general or special law, nor shall this section  
 9 create a private right of action."

#### 10                                   CORRECTION TO TITLE

11       On page 1, delete lines 2 through 10, and insert:

12 "RELATING TO BULLYING; AMENDING SECTION 18-917A, IDAHO CODE, TO PROVIDE  
 13 APPLICATION OF THE SECTION TO ADDITIONAL BEHAVIOR, TO DEFINE A TERM, TO  
 14 REVISE WHAT ACTION SHALL BE AN INFRACTION AND TO REPLACE DISCRETIONARY  
 15 LANGUAGE WITH MANDATORY LANGUAGE; AMENDING SECTION 33-512, IDAHO CODE,  
 16 TO PROVIDE ADDITIONAL DUTIES REGARDING GOVERNANCE OF SCHOOLS AND TO  
 17 MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 12, TITLE 33, IDAHO  
 18 CODE, BY THE ADDITION OF A NEW SECTION 33-1208B, IDAHO CODE, TO PROVIDE  
 19 CERTIFICATED PERSONNEL OBLIGATIONS FOR HARASSMENT, INTIMIDATION, BUL-  
 20 LYING AND CYBERBULLYING INFORMATION AND PROFESSIONAL DEVELOPMENT AND  
 21 TO PROVIDE EXCEPTIONS."